



# Companies Act 2014

## LIFE ADVISORY SERVICES

Part 3, Chapter 6 of the Companies Act 2014 allows a company to buy back its own shares in certain circumstances and subject to certain conditions. The information below is a summary only of the provisions of Part 3, Chapter 6 of the Companies Act 2014 and we recommend that you take appropriate legal advice before you proceed.

### Key Provisions of Part 3, Chapter 6 of the Companies Act 2014

- A company can only acquire its own shares 'out of profits available for distribution', or in certain cases, from the proceeds of a fresh issue of shares made for the purposes of the acquisition;
- The company must be authorised to acquire its own shares by-
  - the Company's constitution;
  - the rights attaching to the shares in question; or
  - a special resolution of the Company.
- A company cannot buy back all its own shares;
- A company can buy back its own shares under a contingent purchase contract, provided the contract has been authorised by a special resolution (e.g. a Put and Call Option Agreement under which the company could exercise a Put option on the death of a shareholder to buy back his shares would be considered to be a contingent purchase contract, the contingency being the death of the shareholder.); and
- Where a purchase of shares is proposed to be authorised by way of special resolution, the following provisions apply;
  - the proposed purchase contract must be made available to any members who request it or alternatively made available for inspection by the members at the registered office of the Company from the date of the notice of the meeting at which the resolution to purchase the shares is proposed to be approved, and at the meeting itself;
  - under section 105(5) of the Companies Act 2014 the special resolution will be ineffective if a member holding shares affected by the resolution exercises his voting rights in respect of the shares in favour of the resolution and it would not have been carried without his vote; and
  - the terms of such a contract to purchase its own shares may only be subsequently varied revoked, or renewed by a further special resolution.

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